

Appl. No. 09/638,587

Docket No. 56838-010200

## PATENT

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. 09/638,587

Group Art Unit: 2635

Applicant(s): Joseph F. Scalisi *et al.*

Examiner: BANGACHON, WILLIAM L.

Filing Date: August 15, 2000

Docket No. 56838-010200

Title: CALL RECEIVING METHOD AND  
APPARATUS HAVING TWO-WAY TEXT MESSAGING  
AND AUTOMATIC RETRIEVAL OF CALL NUMBERS  
MAKING CALLS TO APPARATUS

Customer No. 33717

RECEIVED  
CENTRAL FAX CENTER

FEB 14 2005

## Certificate of Transmission

I hereby certify that this correspondence is being facsimile transmitted to the U.S. Patent and Trademark Office (Fax No. 703-872-9306).

February 14, 2005  
DateMiyabi Grace  
Miyabi Grace

Mail Stop After Final  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

PETITION FOR FILING WHEN AN INVENTOR REFUSES TO SIGN OR CANNOT BE  
REACHED  
&  
STATEMENT OF FACTS IN SUPPORT OF FILING ON BEHALF OF NONSIGNING  
INVENTOR UNDER 37 C.F.R. § 1.47

Dear Sir:

Joint inventor, Lawrence E. Hecox, could not be reached after diligent effort in order to contact him to sign a supplemental declaration of inventorship in accordance with the Office Action of July 14, 2003. This application is being filed by the other joint inventors, Joseph F. Scalisi and David Butler (for which supplemental declarations have previously been provided and found satisfactory in the response to the Office Action of July 14, 2003), on behalf of themselves and the omitted inventor, Lawrence E. Hecox.

**Proof of pertinent facts and *bona fide* attempts** are attached and listed below.

Inventor Joseph F. Scalisi had been previously contacted to obtain the last known address of Lawrence E. Hecox, to which the supplemental declaration, among other papers detailed below, were sent. Joseph F. Scalisi (joint inventor and President of E.S.P. Networks, Inc., the Assignee and owner of full exclusive rights of the present application, Statement Under 37 C.F.R. 3.73(b) attached) was also contacted on Friday January 28, 2005, and informed representatives that he is still is unaware of Lawrence E. Hecox's current whereabouts, let alone current address, and that it is likely that he has "left the country".

\\LA-SRV01\221249v01\56838.010200

Appl. No. 09/638,587

Docket No. 56838-010200

Previously and on January 14, 2004, an envelope, via certified mail and having enclosed therein a letter, new declaration of inventorship for signature and a copy of the application (specification, including claims and drawings), were sent to the original and last known address of Lawrence E. Hecox.

On February 9, 2004, said mail was returned, unopened, and indicated "Return to Sender; No Forward Order On File; Unable to Forward" (see attached copies of front and back of said envelope) by the Postal Service.

An internet search, conducted on January 28, 2005, utilizing the "AnyWho" online directory, likewise did not return any listings or provide any additional address information.

It is concluded, in accordance with 37 CFR 1.47 that inventor Lawrence Hecox cannot be reached in order to sign a supplemental declaration, facts upon which such conclusion is based is stated in the statement of facts herewith in support of this petition or directly in the petition.

It is also noted that inventor Lawrence Hecox executed, on July 18, 2000, an assignment of his full and exclusive rights to the present invention/application to E.S.P. Networks, Inc.. This assignment was recorded at the United States Patent and Trademark Office on August 15, 2000.

It is requested that the Director grant a patent, subject to the same rights which the omitted inventor would have had if he had been joined.

Applicants note that a previous declaration, having Lawrence Hecox's signature, had been submitted. (Please see attachment).

The last known address of the non-signing inventor is the following.

21 68<sup>th</sup> Place  
Long Beach, CA 90803

The Commissioner is hereby authorized to charge the petition fee of \$130.00 set forth in § 1.17(h) and any required fee in connection with the submission of this paper, or to credit any overpayment to Deposit Account No. 50-2638.

Respectfully submitted,

GREENBERG TRAURIG, LLP

Date

2-14-2005

By

Claude Nassif  
Claude Nassif, Ph.D.

Reg. No. 52,061

Tel.: (310) 586-7828

Attachments: Copies of Front and Back of Returned Unopened Certified Mail Envelope  
Copy of Assignment  
Statement Under 37 C.F.R. 3.73(b)  
Printout of Online Directory Search Result  
Copy of Previously Submitted Declaration at Time of Filing

Greenberg Traurig, LLP  
2450 Colorado Avenue, Suite 400  
Santa Monica, California 90404  
Telephone: 310-586-7700  
Facsimile: 310-586-7800

\\LA-SRV01\221249v01\56838.010200